

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21188 of 2018

1. The Union Of India Through Director General, Department of Post New Delhi- 110001.
2. Chief Post Master General, Bihar Circle, G.P.O. Complex, Patna- 800001.
3. The Director of Accounts (Postal) GPO Campus, Patna- 800001.
4. The Superintendent of Post Offices, Champaran Postal Division, Motihari- 845401.

... .. Petitioner/s

Versus

Ramadhar Tiwari Son of Late Sitaram Tiwari, Resident of Village- Chakaniya, P.O.- Bediwan Madhuwan, P.S.- Pipra, District- East Champaran, Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rakesh Kumar Sinha, CGC
For the Respondent/s	:	Mr.Binod Kumar Mishra, Advocate
		Mr.Sudhir Kumar Tiwary, Advocate
		Mr. Arun Kumar Jha, Advocate
		Mr. Amar Nath Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 08-09-2022

Heard learned counsel for the respective parties

On 18.07.2022, the following order was passed:-

*“Heard learned counsel for
the respective parties.*

*Chief Post Master General,
Bihar Circle, Patna is hereby directed to
file a detailed affidavit as to vacancy of
MTS was available in the year 2003 and
the respondent was the only person who
was to be appointed. However,
appointment was delayed/promotion
was delayed due to administrative
difficulties, if any. The same shall be*



filed with material information if there is a delay in filling up of vacancy in the year 2003 or not? It was beyond the control of the respondent in respect of non-filling up of the MTS cadre by means of promotion/appointment in respect of vacancy accrued in the year 2003 and the fact that respondent was at serial no. 1 waiting for promotion/appointment to MTS cadre. On account of delay on the part of the postal authorities appointment/promotion of the respondent was deferred from 2003 to 2006 and all these issues affidavit must clarify.

Relist this matter on 01.08.2022 for the aforesaid issues.

At this juncture, it is necessary to the petitioner-department to furnish method of recruitment to the post for which the respondent was promoted/appointed.”

Today, learned counsel for the appellant filed supplementary affidavit. Para 7 of the supplementary affidavit reads as under:-

“That it is further stated that the information in regarding the Hon’ble Patna High Court order dated 18.07.2022 passed in the CWJC No.21188/2018 filed by the UOI & Ors. vs. Ramadhar Tiwari are as follows:-

(i). Yes, one vacancy of MTS available in the year 2003 and the respondent being senior most in the gradation list was the only person to be appointed.



(ii). The promotion of the respondent was delayed due to administrative difficulties i.e. approval of the vacancy by the Postal Directorate, New Delhi.

(iii) That non filing up of the vacancy in the MTS Cadre accrued in the year 2003 by means of promotion / appointment was beyond the control of the petitioner Department.

(iv) That as such no objection was raised by the respondent while accepting & amp; joining the promotional Post and as such his claim is not acceptable and allowable at this stage.”

The aforesaid statement is breft of reasons and merely stating administrative difficulties to postpone the appointment of the respondent. Sufficient cause has not been shown as to why there was a delay of three years which has resulted in denial of service benefits to the respondent. In identical matter in CWJC No. 18525 of 2013 decided on 15.05.2015, this Court has taken note of occurrence of vacancy and filling up of vacancy belatedly and dismissed the writ petition filed on behalf of the Union of India. Recently, we have taken a decision in CWJC No. 25608 of 2019 on 03.08.2022.



In the light of the aforesaid two decisions the appellant-
Union of India has not made out case. Accordingly, the present
Letters Patent Appeal stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

